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June 15, 2004

VIA CERTIFIED MAIL - RETURN RECEIPT

Jeff S. Jordan, Esq.
Supervisory Attorney
Complaints Examination and Legal Administration
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: MUR 5454

Dear Mr. Jordan:

On June 7, 2004, I received on behalf of Howarth & Smith, your letter of June 1, along with the complaint (MUR 5454) of Mr. Paul R. Hollrah. Your letter notes that MUR 5454 has been filed by a separate complainant from MUR 5366, and is therefore being sent for a response.

On June 7, 2004, my office manager, Ms. Stacy Kern and her husband, Robert Kern, also received parallel letters from you and the complaint in MUR 5454, with the same statement indicating that it was being sent for response because it was filed as a separate complainant from MUR 5366.

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2004 JUN 21 A 10:12

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Jeff S. Jordan, Esq.
June 15, 2004
Page 2

This response is being sent to you on behalf of Howarth & Smith, and of Mr. and Mrs. Kern. We have reviewed the complaint in MUR 5454. As you indicate, it is filed by a separate complainant from MUR 5354, which you sent to us just over a year ago on June 6, 2003. The new complaint, however, quotes only the identical language from The Hill newspaper article dated April 29, 2003, which here, as in MUR 5366, is the sole support for the allegations as to the Kerns and Howarth & Smith. (It also attaches the same article from The Hill which it quotes as to the Kerns and Howarth & Smith.) Therefore, while the individual who is the complainant is different, the substance of the complaint is exactly the same word for word and from the same source as that addressed in MUR 5366, which you sent us a year ago.

On June 19, 2003 representatives of Howarth & Smith responded to you with their letter and declarations in MUR 5366. On June 23, 2003 the Kerns responded to you with their letter and declarations in MUR 5366. Thereafter on April 29, 2004 Howarth & Smith and the Kerns received letters from Deputy Associate General Counsel's advising that "On April 14, 2004, the Commission found, on the basis of the information in the complaint, and information provided by you that there is no reason to believe that you and Howarth & Smith violated the Act in this Matter. Accordingly, the Commission closed its file in this matter as it pertains to you and Howarth & Smith."

Enclosed herewith are copies of the above referenced submissions and the letters of April 29 advising of the Commission's finding, organized as follows:

- Exhibit A Letter dated June 6, 2003 from FEC to Howarth & Smith regarding MUR 5366
- Exhibit B Letter dated June 6, 2003 from FEC to Don Howarth regarding MUR 5366
- Exhibit C Letter dated June 6, 2003 from FEC to Suzelle M. Smith regarding MUR 5366
- Exhibit D Letter dated June 6, 2003 from FEC to Stacy Kern regarding MUR 5366
- Exhibit E Letter dated June 6, 2003 from FEC to Robert Kern regarding MUR 5366

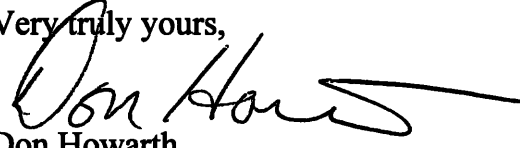
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Jeff S. Jordan, Esq.
June 15, 2004
Page 3


- Exhibit F Letter dated June 19, 2004 from Don Howarth to the FEC regarding MUR 5366, along with declaration of Don Howarth, declaration of Suzelle M. Smith and letter dated May 8, 2003 from Don Howarth to Mr. Albert Eisele, Editor of The Hill News
- Exhibit G Letter dated June 23, 2004 from Robert and Stacy Kern to the FEC regarding MUR 5366 along with declaration of Robert E. Kern, Jr., Stacy Kern, EDD letter regarding Acknowledgment for Erroneously Issued Lien, and letter dated May 8, 2003 from Don Howarth to Mr. Albert Eisele, Editor of The Hill News
- Exhibit H Letter dated April 29, 2004 from the FEC to Don Howarth, Suzelle Smith and Howarth & Smith regarding MUR 5366
- Exhibit I Letter dated April 29, 2004 from the FEC to Robert and Stacy Kern regarding MUR 5366

Since the new complainant in MUR 5454 is based only on the identical language in the identical newspaper article, Howarth & Smith and the Kerns re-submit the same materials submitted in MUR 5366, and respectfully request that the Commission make the same finding here as it did in its April 29, 2004 letters in MUR 5366.

Very truly yours,


Don Howarth
for Howarth & Smith


Stacy Kern


Robert E. Kern, Jr.

DH/REK/sk
Enclosures

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EXHIBITS A-E

26044142842



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Ms. Ellen Weintraub, Chairman
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

MUR # 5366

7003 MAY 30 P 12:22

May 30, 2003

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF LEGAL
COUNSEL

2003 MAY 30 P 3:02

RE: Formal Complaint Against Edwards for President committee, Julius Chambers, Treasurer; John Edwards, candidate for President; and individual Respondents Tab Turner; Don Howarth; Suzell Smith; Stacy Kern; Robert Kern; Elaine Reeves; Else Latinovic; Anita Latinovic; Vikki Sanchez; Donna Hosea; Linda Moen, John Doe and Jane Doe, other unnamed donors to the Edwards for President committee.

Dear Chairman Weintraub:

This is a formal complaint against the Edwards for President Committee, John Edwards, and certain named and unnamed individual donors to the Edwards for President campaign for violation of the Federal Election Campaign Act of 1971, as amended ("FECA") and the Bipartisan Campaign Reform Act of 2003 ("BCRA") ("Complaint").

The Complaint is filed pursuant to 2 U.S.C. §437g(a)(1) and 11 C.F.R. §111.4 by the American Conservative Union, Inc. ("ACU"). The undersigned serves as Chairman of ACU, a 501(c)(4) non-profit corporation and the nation's oldest and largest conservative grassroots lobbying organization.

This complaint is based upon numerous media reports documenting illegal fundraising activities by and illegal contributions to Edwards for President, several of which are referenced herein and/or attached as exhibits to this Complaint. This Complaint is based on the published reports that Edwards for President Committee and John Edwards and numerous donors and fundraisers have violated the provisions of federal law related to fundraising for and contributions to presidential campaign committees.

ACU hereby requests the Federal Election Commission to conduct an audit of all contributions to the Edwards for President committee and that *no federal matching funds* be authorized for or paid to the Edwards for President committee until each contribution submitted for federal matching funds has been specifically audited, the donors interviewed and the funds deemed to be contributions given freely and voluntarily from the donors' own resources and otherwise not in violation of federal campaign finance laws.

According to numerous reports, donors to the Edwards for President Committee were promised they would be reimbursed by their employer(s) for contributions made to the Edwards campaign. Other reports and investigations reveal that maximum level donors appear not to have the financial resources available to have made the reported contributions from their own funds. Clearly, a pattern has emerged of illegal fundraising and contributions involving the Edwards for President campaign which demands action by the Commission *prior* to the payment of federal primary matching funds and further which requires the imposition of penalties for violation of the law by those guilty of such violations.

The Edwards for President campaign has acknowledged some irregularities and wrongdoing, but still not in a manner sufficient to remedy a clear pattern of illegal activity reported in various public sources.

The *Washington Post*, April 18, 2003, Page A1, "Edwards Returns Law Firm's Donations", by *Thomas B. Edsall and Dan Balz Washington Post Staff Writers* reported that "The presidential campaign of Sen. John Edwards (D-N.C.) announced yesterday it will return \$10,000 to employees of a Little Rock law firm after a law clerk said she expected her boss to reimburse her for a \$2,000 donation. Federal election laws prohibit a person from funneling donations through someone else to conceal their source. Such practices would enable the reimbursed to exceed the legal contribution limit for individuals, recently raised to \$2,000 from \$1,000 per person per election."

However, the return of \$10,000 does not begin to address the pattern of illegal activity in which the Edwards campaign has engaged.

Published reports from the Center for Individual Freedom's website state that twenty (20) persons identified as paralegals and nine (9) listed as legal assistants employed by Turner & Associates PA in Little Rock, Arkansas, contributed \$2,000 each to the Edwards campaign after receiving assurances that their contributions would be reimbursed. From this law firm alone, more than \$58,000 in suspicious contributions to the Edwards campaign were received, yet only \$10,000 was reported by the Edwards campaign as being returned to the donors from that firm. See www.cfif.org, *John Edwards: An Oops for the Trial Lawyers' Presidential Candidate*, posted April 24, 2003. See also "*What John Edwards Money Said*" by John Samples, www.cato.org, posted on the website of the Cato Institute on May 9, 2003.

Mr. Tab Turner, principal in the law firm (Turner & Associates PA) which employs the suspicious Little Rock donors was a major donor to Sen. Edwards political action committee during the 2002 election cycle, having contributed \$189,000 to the New American Optimists PAC, according to the public records filed with the Commission. See Center for Responsive Politics, www.crp.org.

Mr. Turner has been intimately involved in contributing to and fundraising for political committees associated with John Edwards, including but not limited to the Edwards for President Committee according to the public records filed with the Commission.

Other newspapers have separately undertaken to investigate donors to the Edwards for President campaign and have found similar illegal activities.

The Hill newspaper reported on May 7, 2003 that Edwards for President campaign documents filed of record with the FEC reveal a pattern of illegal contributions by low-level employees of law firms whose principals are engaged in contributing to and fundraising for the Edwards for President committee.

According to *The Hill*, "Donations to Edwards Questioned", by Sam Dealy, the contributions from low-level employees contributing at the maximum \$2,000 level arrived on the same day along with contributions from the partners and attorneys of the firms employing the individual donors. Further, the FEC records reflect that contributions from spouses and other family members were also made on the same dates as those from the low-level employees of the law firms. No conduit reports were filed by the law firms which employ the donor-employees.

According to *The Hill*, questionable contributions were received from Respondents Stacy Kern; Robert Kern; Elaine Reeves; Vikki Sanchez; Donna Hosea; Linda Moen. Other individual donors, based on public reports, have also violated federal law with sham contributions to Edwards for President committee.

Principals of law firms who may have engaged in illegal fundraising practices include Respondents Tab Turner, Don Howarth, Suzell Smith and other trial lawyers may have engaged in coercing or facilitating contributions from or through their employees to the Edwards for President campaign.

Clearly, the Edwards for President committee's return of a mere \$10,000 does not begin to remedy a pattern of clear violation of FECA by the campaign and its donors and fundraising personnel.

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The Respondents have violated numerous provisions of federal law, including but not limited to:

2 U.S.C. §441a(a)	Making excessive campaign contributions
2 U.S.C. §441a(f)	Accepting excessive campaign contributions
2 U.S.C. §441f	Prohibitions on contributions in the name of another
2 U.S.C. §441a(a)(8)	Failure to report earmarked contributions / failure to report donor(s) as conduit(s) for earmarked contributions

ACU demands a full and thorough investigation and audit of each donor and each contribution to the Edwards for President committee and moves to enjoin the payment to the Edwards for President campaign of any federal primary matching funds until each donor's contribution has been reviewed to insure its compliance with applicable federal law.

[See 26 U. S. C. §9034, limiting eligibility of primary matching funds to lawful contributions].

Please contact me if you have further questions regarding this Complaint.

Sincerely,

David A. Keene, Chairman
American Conservative Union

AFFIDAVIT

I hereby swear upon penalty of perjury that the above and foregoing Complaint is true and correct to the best of my knowledge and belief, based upon the information from the public sources referenced herein.

David A. Keene

Sworn and subscribed before me this 30th day of May, 2003, WASHINGTON, DISTRICT OF COLUMBIA

NOTARY SEAL

Notary Public

My Commission Expires: Jun. 31, 2004

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The Washington Post

April 24, 2003, Thursday, Final Edition

SECTION: A SECTION; Pg. A04

LENGTH: 585 words

HEADLINE: Law Firm's Donations To Edwards Probed; Justice Dept.
Reviewing Contributions

BYLINE: Thomas B. Edsall, Washington Post Staff Writer

BODY:

The Justice Department's Criminal Division has initiated an investigation into contributions made by employees of a prominent Little Rock law firm to the presidential campaign of Sen. John Edwards (D-N.C.).

The investigation was prompted by news reports about \$ 2,000 contributions to the Edwards campaign made by four legal assistants at the Turner & Associates firm. One donor, Michelle D. Abu-Halmeh, told The Washington Post that Tab Turner, the firm's principal lawyer, said he would reimburse her for her donation. Turner said last week she would not be reimbursed.

By law, a person can give no more than \$ 2,000 to a federal candidate. It is illegal to funnel donations through another person, which could be a means of circumventing the limit.

Law enforcement sources in Little Rock familiar with the inquiry said it is being handled from Washington, not by the local U.S. attorney's office. It could not be determined whether the investigation might extend beyond the Turner firm's contributions.

The Edwards for President Committee reported raising \$ 7.4 million through March 31, more than any of the senator's eight competitors for next year's Democratic nomination. About \$ 4.5 million came from lawyers, most of them members of the plaintiffs' bar, and from people employed by or related to members of law firms. Twenty \$ 2,000 donors were identified on Edwards's disclosure report as "paralegals," and nine \$ 2,000 donors were listed as "legal assistants."

Sources said the investigation is being conducted by Craig Donasanto, director of the election crimes division in the Justice Department's Public Integrity Section. His office referred inquiries to the public relations office, which refused to discuss ongoing inquiries.

Jennifer Palmieri, spokeswoman for the Edwards campaign, said: "We are glad to learn that the appropriate law enforcement authorities are following up on the matter." She added, "We have no reason to suspect political motivation" by the Republican-run Justice Department.

The Edwards campaign last week returned all contributions from employees of Turner's firm, and said it was unaware of any improprieties when the contributions were received.

"The Edwards campaign is committed to abiding by the highest ethical standards," Palmieri said. She said it would be expected that the inquiry is being conducted by the Washington election crimes division, and "does not raise any red flags."

— The investigation has just begun, and decisions about the scope and targets have not been made, according to sources.

Efforts to contact Turner by phone and by e-mail yesterday were unsuccessful.

In 2002, before large "soft money" contributions were banned, Turner and his firm gave \$ 200,000 to Edwards's "New American Optimists" political committee.

Edwards was a prominent plaintiffs' lawyer before he won office in 1998.

Like many of the attorneys supporting him, he generally represented people suing for alleged injuries, illness or the wrongful death of loved ones.

Turner has won national attention for his successful suits against the makers of cars prone to rolling over. His firm's Web site says his "practice is nationwide and he has handled over 100 single-vehicle accident rollover cases" involving many SUV models. The Web site mentions court cases in which Turner won verdicts or settlements of \$ 7.2 million, \$ 25 million, \$ 20.1 million and \$ 26 million.

Staff writer Dan Balz contributed to this report.



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Freedom Line



Cynics might venture that all that trial lawyer money for Edwards' presidential bid may represent the first time their deep pockets get clipped

John Edwards: An Oops for the Trial Lawyers' Presidential Candidate

It is no secret that John Edwards, the Democratic U.S. Senator from North Carolina, is the trial lawyers' anointed candidate for president. He was a trial lawyer himself before multimillion dollar verdicts and audiences of only 12 people at a time no longer satisfied his compulsion to serve humanity.

Trial lawyers have lots of money. They want lots more, which is why "greedy" is the adjective frequently used to describe them. Never accused of being shortsighted underachievers, they are willing to invest to get lots more.

Of the \$7.4 million that John Edwards claimed as contributions in his first quarter of presidential campaign reporting, \$4.5 million came from lawyers, lawyers' families and employees.

In Senator Edwards' report, 20 people listed as "paralegals" and nine listed as "legal assistants" each gave \$2,000, the maximum contribution allowed per individual per election. Two *Washington Post* reporters – Thomas Edsall and Dan Balz – who can smell a story in a swamp, decided to ring up some of those large contributors and see what's up.

They rang up Michelle D. Abu-Halmeh, "a law clerk at the Little Rock [Arkansas] firm Turner & Associates PA [who] said she had not found it difficult to send \$2,000 to the Edwards campaign. She said her boss, Tab Turner, 'asked for people to support Edwards,' assuring them that 'he would reimburse us.'"

Lawyer Turner, who spends a great deal of his time suing automobile and tire manufacturers, doesn't seem to like telephones very much either and responded to the reporters only by e-mail. "He replied: 'The answer to your direct question is no, she is not going to be reimbursed. She apparently cannot be reimbursed under some rule relating to campaign finance.'"

Apparently? Some rule? Well, that's right, Mr. Lawyer Turner, Esquire, Sir. There is apparently some rule relating to campaign finance that prohibits asking people to make campaign contributions under the condition that those contributions will be reimbursed.

In practice, the law is probably as effective as "some rule" that prohibits frivolous lawsuits, but it is neither new nor arcane. Even laymen and "homemakers" (a large political donor base), not schooled in the law, understand it.

Its purpose is to prohibit citizens, even trial lawyers, from exceeding

EXHIBIT B

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contribution limits through deception. Its purpose is to prohibit small groups of the well-heeled from exercising excessive influence over elected officials, although, again, in practice, it may be as effective as "some rule" that prohibits frivolous lawsuits.

Does anyone believe that "President" John Edwards would sign any tort reform legislation trying to rein in rampant abuses of our legal system? Of course not. As a distinguished (meaning rich) former trial lawyer, he understands much better than the rest of us that shopping for aggrieved clients to sue deep pocketed pigeons for phantasmagorical verdicts *must be* exactly what the Founding Fathers intended.

Those lawsuits are estimated to cost every man, woman and child in this country \$650 a year, but in the world of John Edwards and his cronies at the trough, it is infinitely better for us to give that money to trial lawyers than spend it on SUVs, which may roll over on us, or Big Macs, which may make us fat.

Senator Edwards' campaign has said it will return the entire \$10,000 contributed by employees of Turner & Associates PA. What the hell, \$7,390,000 is still the largest take among presidential candidates. An Edwards spokesperson also said the "campaign has no plans to examine the legality of other contributions," but would surely act "if presented with information about that."

That's okay, because *The New York Times* is reporting that the "Justice Department's public integrity section has opened a criminal investigation" into the donations made to Edwards by employees of the Turner law firm. Somehow, we have the feeling, and it's just a feeling, that this investigation will be more vigorously pursued than some of recent memory.

Cynics might venture that all that trial lawyer money for Edwards' presidential bid may represent the first time their deep pockets get clipped. Polls in North Carolina steadily show Edwards losing his own state by a landslide in a head-to-head match with President Bush, should the president decide to run for re-election.

[Posted April 24, 2003]

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May 9, 2003

What John Edwards' Money Said

by John Samples

John Samples is director of the Center for Representative Government at the Cato Institute.

People are fond of saying that "money talks" in politics no less than in life. In presidential elections, money has something to say, but you have to listen closely. Take the case of Sen. John Edwards (D-NC), who wants to be the Democratic presidential candidate.

Recently we learned Edwards had raised over \$7 million for his campaign, second only to front-runner Sen. John Kerry (D-Mass.). This success gave Edwards credibility with journalists and party leaders. On the bad side, he had to give back some of the money when it turned out the donations violated federal law. Now the Department of Justice is looking into the case.

Having to return the donations surely says little about Edwards' personal integrity. Some employees of a law firm in Little Rock, Arkansas, apparently gave the Edwards campaign the maximum legal donation of \$2,000 believing their employer, a friend and supporter of the senator, would reimburse them. That's illegal under federal law, and once the violation became known, the Edwards campaign promptly returned the money. The rest of us can take some comfort in knowing that Edwards did the right thing, at least once the Washington Post found out his fundraisers had done the wrong thing.

Edwards' mini-scandal grew out of the intense competition for the Democratic presidential nomination. He faces an uphill battle to become the Democratic candidate in 2004. The media have already crowned Sen. John Kerry as the front-runner. Faced with Kerry and other tough rivals, Edwards desperately needed to prove his candidacy was serious.

Fundraising aside, Edwards' appeal to the Democratic faithful lies elsewhere. He is putting himself forward as a political moderate from the South. He offers the prospect of a return to the 1990s when another Southern moderate, Bill Clinton, won two terms in the White House. Edwards hopes Democrats will recall the electoral disasters brought on the party by a Northeasterner (Michael Dukakis) in 1988 and a Midwesterner (Walter Mondale) in 1984.

Edwards has a point. No one should doubt the power of regionalism in American politics. All presidents since 1972 have been from the South or the West. Edwards has one essential trait for winning the presidency.

EXHIBIT C

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100 pages

But John Edwards is not Jimmy Carter or Bill Clinton (not to mention Ronald Reagan or George W. Bush). He's not a former governor. All presidents since 1972 (save for George H.W. Bush) have held the highest office in a state far from Washington, DC. That's not surprising. Americans regularly tell pollsters they don't trust the federal government. Their faith in D.C. has improved ever so slightly of late but *probably not* enough to elect a Washington insider (or someone from Massachusetts).

Edwards is a senator (and hence, an insider) but only recently arrived (elected in 1998). He might hope to run a populist campaign and hope his Southern charm carries him the rest of the way.

Yet Edwards became rich as a trial lawyer and gets most of his campaign funds from his fellow plaintiffs of the bar. He has gotten about 60 percent of his funding for the presidential campaign from other lawyers. There's nothing illegal or immoral about that. Lawyers also have a right to participate in politics.

Having trial lawyers for friends and supporters, however, contravenes the image Edwards hopes to cultivate as an outsider who will stand up to the special interests in D.C. Fairly or not, trial lawyers seem to have found their own presidential candidate in John Edwards.

Edwards will say trial lawyers fight for the little guy against big corporations who have done them wrong. His opponents will surely point out that two thirds of Edwards' money comes from donors giving the legal maximum of \$2,000. That may make his populist rhetoric sound hollow.

We should not be concerned that John Edwards' campaign broke some campaign finance rules. We should wonder why he has not attracted broad support from Democratic donors. Americans hope to elect a president who seeks, to the best of his ability, the good of the nation as a whole. For now, John Edwards seems more of a lobbyist than a leader.

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IN THIS ISSUE Sunday May 25, 2003

MAY 7, 2003

SEN.

Donations to Sen. Edwards questioned*By Sam Dealey*

Sen. John Edwards' presidential campaign finance documents show a pattern of giving by low-level employees at law firms, a number of whom appear to have limited financial resources and no prior record of political donations.

Records submitted to the Federal Election Commission (FEC) show these individuals have often given \$2,000 to the North Carolina Democrat, the maximum permitted by law.

In many instances, all the checks from a given firm arrived on the same day — from partners, attorneys, and other support staff.

Some of these support staff have not voted in the past, and those who have voted include registered Republicans, according to public records on file with various county registrars of voting.

Edwards' campaign records also reveal that many of these individuals' spouses and relatives contributed the maximum on the same day. The Hill found many of them to be first-time givers. Some have no previous demonstrable interest in politics, while others appear to be active Republicans.

Stacy and Robert Kern of Los Angeles, for example, are among those who contributed to Edwards' candidacy. Stacy Kern is listed as an administrator at the law firm of Howarth & Smith. The firm participated in the class-action suits against the tobacco industry.

On March 6, Stacy Kern contributed \$2,000 to the Edwards campaign. Two associate attorneys and five of the firm's six partners also contributed the maximum amount. Los Angeles County records show that Stacy Kern is not a registered voter and has not previously voted or contributed to a federal campaign.

Her husband Robert, a self-employed travel agent, also gave \$2,000 on the same day. Robert Kern was at one point registered to vote in Los Angeles, but after numerous unanswered letters since 1996 from the county registrar of voters, he was dropped from the voter rolls last year. As with his wife, Robert Kern has no record of having voted and made no previous federal campaign donations.

In 1998, Stacy Kern declared Chapter 7 bankruptcy in California, with assets of \$7,925 and liabilities of \$126,769. In 1994, California assessed her husband with a \$33,254 state tax lien, active until 2004. The Kerns are not listed as property holders.

Stacy Kern said there was no coordination at the firm of donations to Edwards. But she added: "I mean, it's not coincidence. I mean, we talked about him [around the firm]."

She said she does not remember the nature or specifics of those talks. Her husband Robert did not return several calls from The Hill.

A 2002 survey conducted by the Legal Assistant Management Association (LAMA) found that paralegals earn an average pre-tax salary of \$44,416. Clerks make \$30,345 on average,

EXHIBIT D

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and managers receive \$81,151. LAMA noted that salaries for legal assistants in San Francisco, San Jose and Los Angeles tend to be 11-29 percent higher than those nationwide.

Jennifer Palmieri, a spokeswoman for Edwards, told The Hill that the pattern of low-level employee contributions "doesn't concern us" and that the Edwards campaign is "proud of our compliance record."

Several newspapers have reported that the Department of Justice (DOJ) has begun a criminal investigation into donations to the Edwards campaign from an Arkansas personal injury law firm. Michelle Abu-Halmeh, a legal assistant at Turner & Associates, told The Washington Post last month that she expected to be reimbursed by her boss for her \$2,000 contribution.

According to the Federal Election Campaign Act, contributions by an individual or entity to a political campaign in the name of another person are prohibited. Both the named and concealed donors are liable. The campaign is also liable if it knowingly accepts conduit funds.

There is no direct evidence that the pattern of giving in this article constitutes improper or illegal activity on the part of any individuals, law firms, or the Edwards campaign. Legal support staffers who spoke to The Hill said they neither expected nor were promised reimbursement for their contributions. The law firms did not return calls seeking comment.

A DOJ spokesman, citing departmental policy, declined to confirm or deny whether an investigation is underway.

Palmieri said the campaign has not been contacted by DOJ regarding that matter. She added that the campaign now advises donors of the laws governing third-party contributions.

In the three-month financial reporting period ended March 31, the Edwards campaign reported raising more than \$7.4 million, the vast majority from individual contributors. Records show that nearly two-thirds of these contributions came from persons connected with law firms.

The large amount of donations to Edwards, a first-term senator with no prior political experience, is noteworthy because he bested his more seasoned Democratic presidential hopefuls in the race for early money — itself an important indicator of political viability.

Edwards's FEC filings show much of the presidential contender's impressive fundraising came from well-heeled attorneys at successful trial law firms.

Nevertheless, the seeming pattern of contributions by many low-level employees has raised concerns among several campaign finance watchdogs.

"It seems on the surface very suspicious," said Bill Allison of the non-partisan Center for Public Integrity. "I think it is somewhat questionable that people who have never donated before would suddenly donate \$2,000," he said.

Larry Noble, executive director of the Center for Responsive Politics, also said the pattern of donations is surprising. "When you see groupings of contributions being given by office workers who are not among the highest-paid, and you see them maxed-out and their spouses maxed-out, then questions get raised," he said.

The Hill examined thousands of pages of public records.

Among those who gave is Elaine Reeves, an office manager at Wilkes & McHugh, a Tampa-based trial firm specializes in nursing home abuse litigation.

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On March 26, Elaine Reeves gave \$2,000 to Edwards. Four other employees of the firm also gave the maximum that day, and another five gave \$2,000 a month before.

In September 1995, FEC records show an individual with the same name residing at a known address of Elaine Reeves's gave \$1,000 to the Clinton-Gore '96 Primary Committee. One year later, in September 1996, Pasco County records show Elaine Reeves registered as a Republican. She has not voted, according to county records.

Elaine's husband, Thomas Reeves, also gave \$2,000 to the Edwards campaign on March 26. He is identified on campaign filings as a self-employed driver. In 1996, Thomas registered as a Republican and voted in the 2000 general election. FEC records show he has not previously been a political contributor.

In 1996, the Reeves bought their Lutz, Fla., home for \$99,000, with a mortgage of \$94,000. In 2001, the home was assessed at \$95,362. Elaine Reeves declined to comment for this article and Thomas Reeves could not be reached.

While similar donations found by The Hill occurred across the nation, a disproportionately large number of them came from California.

Else Latinovic, an administrator at Los Angeles-based O'Donnell & Shaeffer, contributed \$2,000 to Edwards on March 31. O'Donnell & Shaeffer's website states: "Our philosophy is that we do best what we know best — litigation and trial work."

In addition to Else's maximum contribution, nine other employees at the firm contributed varying amounts on the same day, including four lower-level employees who maxed out.

Los Angeles County records show Else Latinovic has not voted and is not registered to vote. She has no prior record of federal campaign donations.

In 1996, California assessed Else Latinovic with a state tax lien of \$2,465. In 2000, she declared Chapter 7 bankruptcy, with no assets for distribution. In 2001, she purchased a Simi Valley, Calif., condominium for an undisclosed amount from relatives Vid and Anita Latinovic.

Anita Latinovic, who is listed as retired, also gave \$2,000 on March 31. She has no previous history of political donations. Los Angeles and Kern counties, where she has maintained residences, have no record that she registered to vote or voted.

Vikki Sanchez is a paralegal at Shernoff Bidart & Darras, a law firm in Claremont, Calif., that specializes in insurance liability work, including HMO litigation and Holocaust claims.

On March 10, Vikki Sanchez contributed \$2,000, the same day and the same amount as five other firm members. Two other Shernoff Bidart employees contributed the maximum amount on different days. All four of the firm's partners contributed \$2,000.

In 1992 Vikki Sanchez registered in Los Angeles County as a Republican. She has consistently voted in federal elections, including California's primary.

California utilizes a closed-primary process. Individuals registered with a party may only vote for that party's candidates in primary elections.

Vikki Sanchez did not recall previously donating to a federal campaign. Federal election records show that in 2000 she contributed \$1,000, the maximum amount permitted at the time, to Rep. Adam Schiff (D-Calif.). The donation occurred on the same day as other Shernoff Bidart employee contributions.

"Everybody in the firm was aware that there was money raised," said Vikki Sanchez of the Edwards donations. "We were just asked if we'd like to contribute." She says she was not

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promised reimbursement for her donation. "The attorney I work with mentioned that they were giving some money and they were speaking to others," Vikki Sanchez said.

On March 10, Vikki's husband Thomas Sanchez also contributed \$2,000. Listed as a facilities manager at Metro Water District, he registered as a Republican in 1992. Thomas Sanchez has consistently voted in elections, including the state's closed primary. He has no record of prior political donations.

Thomas Sanchez said he was not aware that he had donated to the Edwards campaign. "Wasn't me," he said. "You've got the wrong guy." His wife said she gave one check to the Edwards campaign for \$4,000 from both herself and her husband.

The Sanchez's Walnut, Calif., house was assessed in 2002 at \$266,700, nearly \$20,000 less than what it was bought for in 1987.

Lower-level employees at the plaintiffs' firm Robinson Calcagnie & Robinson also contributed heavily. FEC records show three paralegals and an office manager maxed-out to the North Carolinian on March 7. Eleven of the Newport Beach firm's 14 attorneys also contributed \$2,000 on the same day.

Donna Hosea, a paralegal at Robinson Calcagnie and incorrectly identified on Edwards' filings as "Donna Hosen," also gave \$2,000 on March 7. She has no previous history of donating to a federal campaign. Donna Hosea registered to vote in Orange County in 1984 as an independent and frequently participates in elections.

Donna's husband Michael Hosea, a self-employed contractor, also gave \$2,000 on the same day as Robinson Calcagnie employees. He registered with Orange County in 1982 as a Republican and regularly votes in federal elections, including the California primary. Michael Hosea has no previous history of donating to a federal campaign.

The Hoseas' Cypress, Calif., house was purchased in 1971 for \$28,000. Last year it was assessed at \$117,597. The couple also purchased property in Arizona in 1989 for \$84,000, and service a mortgage of nearly \$140,000.

Donna Hosea said the \$4,000 donation from her and her husband was for admittance to the Edwards fundraiser. Neither of them attended, she said.

Donna Hosea said she was not aware of the other 14 Robinson Calcagnie donations recorded on the same day. "I know nothing about what anyone else did," she said.

Linda Moen, an office manager at the firm who contributed the maximum permitted, has no prior history of federal political donations. Orange County records show she registered as a Republican in 1987 and consistently votes, including in California's closed primaries.

Franklin Moen, Linda's husband and a self-employed attorney/consultant, also gave \$2,000 on March 7. It was his first recorded donation to a federal campaign. County records show Franklin Moen registered in 1994 as a Republican and regularly participates in primary, general and special elections.

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The Money Race: After First Quarter, Kerry Leads

By Daniel Lathrop

Despite North Carolina Sen. John Edwards' quick-from-the-gate start raising \$7.4 million in campaign cash since Jan. 1, Sen. John Kerry narrowly remains the top fundraiser amongst Democratic presidential contenders. Kerry has raised more than \$7.5 million in his bid to become his party's standard-bearer against President George W. Bush, including more than \$7 million since Jan. 1 (Kerry started raising money late last year). Rep. Richard Gephardt of Missouri, the former House Democratic leader, is third with \$3.6 million.

According to a Center of Public Integrity analysis, the early scramble for money has again shown the power of donors who can afford to write big checks. More than half of contributions came from donors who gave \$1,000 or more, and \$13 million of the \$30 million raised by the declared Democratic candidates came from those who wrote a check for the \$2,000 maximum.

The Center's analysis shows that attorneys dominated Democratic fundraising, with more than \$6.5 million of the field's \$30 million coming from attorneys. In fact, every one of the candidates has raised more money from attorneys than from any other profession.

Most noticeable in that total is Edwards, himself a prominent trial lawyer before he first ran for the Senate in 1998. Close to 60 percent of the contributions he received came from the legal sector.

So far, Edwards' campaign has not raised significant funds from any other specific industry, although he did receive \$50,750 from investment bankers at Goldman Sachs, possibly a signal of future support from Wall Street.

Lawyers also provided \$1 million of Kerry's \$7.5 million and more than \$527,000 of Gephardt's \$3.6 million.

Lee Sigelman, a professor of political science at George Washington University, said that support may come in part because of the Democratic Party's common cause with trial lawyers against Republican-backed caps on jury awards.

But there's more to it than that, he said. "Lawyers tend to be politically ambitious. They tend to make long-term alliances with high level electoral politicians."

While most of the Democratic field started raising money this year, Kerry and Gephardt took advantage of federal election laws—which allow virtually unrestricted use of money raised during past elections—to transfer more than \$2 million each accrued during their lengthy congressional careers into their presidential campaigns.

With the addition of those funds, Kerry's total campaign account jumped to more than \$10 million, locking in his lead in the Democratic money race. Indeed, despite outspending Edwards so far, Kerry has more than \$8 million in the bank. Edwards' campaign has \$5.7 million and Gephardt has nearly \$5 million, putting him in striking distance of second place.

Three other Democrats have brought in more than \$1 million: Sen. Joe Lieberman of Connecticut, the 2000 vice presidential nominee, raised \$3 million; former Vermont Governor Howard Dean raised \$2.9 million; and Sen. Bob Graham of Florida, the ranking member on the Senate intelligence committee, raised about \$1 million.

Rep. Dennis Kucinich of Ohio (\$180,080), former Sen. Carol Moseley-Braun of Illinois (\$72,450) and the Rev. Al Sharpton of New York round out the Democratic field. Sharpton has not filed a report of fundraising for his presidential exploratory committee, which is required of all candidates who have raised or spent more than \$5,000.



What's New

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EXHIBIT E

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So far combined spending by the Democratic field tops \$7 million, with the bulk of that going to fundraisers. Washington staffs and consultants. Less than \$1 million has been allocated for spending in primary states, despite a primary schedule that is more front-loaded than any since the primary system began in the late 19th century.

Sharpton, Al

Kerry's \$2 million in campaign spending has gone mostly to travel, staff expenses and fundraising costs. According to the campaign's reports to the FEC, \$344,585.84 went directly to efforts in primary states.

About 20 percent of Gephardt's \$1 million in spending went to efforts in primary states, with the largest other expenditures on staff, fundraising and travel.

Edwards has spent only \$47,000 on direct primary efforts. His \$1.7 million in campaign spending has gone largely to staff, travel and fundraising expenses. (The Edwards campaign has also announced that it will refund \$10,000 to the employees of an Arkansas law firm whose principal had agreed to reimburse employees, according to an April 18 *Washington Post* article.)

The spending patterns are understandable, says Sigelman. It merely shows that the January 2004 beginning of the caucus and primary season is still a long way off.

"They're putting together their organizations, and putting together their campaigns rather than figuring out what they're going to spend in New Hampshire (or) what they're going to spend in Iowa," he said.

President George W. Bush has yet to formally announce his re-election campaign, and has not begun raising money. In the first three months of 1999, Bush raised \$7.6 million, by far the most among the Republican primary candidates. Since Bush will most likely run unopposed for the Republican nomination, money he raises for the primaries can be used to fuel his November 2004 re-election bid.

◀ Previous

The Money Race: After First Quarter, Kerry Leads (Page 1 of 1)

Next ▶

John Edwards-Campaign Finances

Edwards for President, Inc.

On January 2, 2003, Sen. Edwards announced formation of a presidential exploratory committee. Edwards for President, Inc. is headquartered in Raleigh, North Carolina. Nick Baldick, a former top Gore operative, is the campaign manager. Key finance people are national finance chair **Eileen Kotecki**, who was national finance director of Al Gore's 2000 campaign, and co-national finance directors **Brian Screnar** and **Scott Darling**, who previously served a similar role with Edwards' leadership PAC, New American Optimists.



Edwards for President, Inc. Finances

<u>FEC Filings</u>	<u>Total Receipts</u>	<u>Total Disbursements</u>	<u>Cash on Hand</u> (at end of reporting period)	<u>Debts and Obligations</u>
<u>1st Q 2003 (Jan. 1-March 31)</u>	\$7,418,568.16	\$1,679,829.39	\$5,738,738.77	--

Notes:

1st Q 2003 The committee held its first fundraiser on the evening of Jan. 4, 2003 at Greenshields in downtown Raleigh. The Edwards campaign was first to announce its first quarter numbers on March 31, the figure of \$7.4 million proved to be the highest of any of the candidates, surprising observers and giving a boost to the campaign. However, the feat was tarnished somewhat a couple of weeks later when the *Washington Post* reported Edwards' campaign was returning \$10,000 in contributions to employees of a Little Rock law firm after a clerk told reporters her boss had said he would reimburse her for contributing to Edwards' campaign. See Thomas B. Edsall and Dan Balz "Edwards Returns Law Firm's Donations." *Washington Post*, April 18, 2003, page A1. See also 1st Q Disbursements.

New American Optimists

In August 2001 Sen. Edwards formed a leadership PAC, the New American Optimists. The "Optimists" brought on Steve Jarding as its director starting January 2002. Jarding, a top-notch operative, had recently managed Mark Warner's successful campaign for governor of Virginia in 2001; previously, he worked for Sen. Bob Kerrey (D-NE) for many years through to 1998, when Kerrey left the Senate. Jarding brought with him to the Optimists some of the people who had worked on the Warner campaign, including the colorful David "Mudcat" Saunders to work on rural outreach.

A number of people from Al Gore's 2000 campaign appeared in various consulting roles. Nick Baldick, a former Gore operative, helped organize Edwards' first trip to New Hampshire in February 2002 as well as subsequent New Hampshire trips. David Ginsberg (Ginsberg Lahey LLC, Washington, DC) who directed research for the Gore campaign, began doing research consulting for the Optimists fairly early in 2002.

(Although he is not a Gore campaign alumnus, Jonathan Prince, a former Clinton speechwriter and advisor now of Isay, Klores, Prince in New York, started about the same time). The Washington, DC consulting firm of Shrum, Devine & Donilon, Inc., the folks who oversaw media for the Gore campaign, produced almost \$2 million soft-sell, get-out-the-vote media campaign focused primarily on North Carolina in fall 2002. [IRS form

EXHIBIT F

8872 filings for the 3rd Quarter, Pre-General and Post-General showed expenditures to the firm totaling \$1,948,139.63].

The Optimists was by far the most aggressive among the Democratic '04 prospects' leadership PACs in soliciting major contributions, and most of its money came from trial lawyers. Los Angeles producer Steven Bing was the biggest donor, contributing a total of \$900,000. All told there were 30 contributions of \$50,000 or more, 28 from attorneys or law firms.

With its ample resources, the Optimists engaged in many creative efforts to curry support and boost Democratic candidates in key states. In April 2002, the Optimists sent 123 computers to Iowa and 53 computers to New Hampshire, on loan, for Democrats to use on their 2002 campaign efforts. Optimists purchased the voter files in Iowa and New Hampshire.

In addition to putting money in key presidential primary states, the Optimists invested substantial resources in Edwards' home state of North Carolina. The IRS second quarterly report showed \$500 contributions to 25 North Carolina State House candidates and \$1,000 contributions to 21 State Senate candidates for a total of \$33,500; in the third quarter Optimists sent a total of \$66,500 to State House, State Senate, and judicial-candidates in North Carolina and \$15,000 to the state party; and the IRS post-general report (Oct. 17-Nov. 25, 2002) showed a contribution of \$50,000 to the state party. However, the biggest investment went to produce and run those get-out-the-vote TV spots featuring Edwards.

John Edwards
NEW AMERICAN OPTIMISTS
Helping Democrats Win in 2002

New American Optimists Finances

	<u>Total</u> <u>Receipts</u>	<u>Total</u> <u>Disbursements</u>	<u>Cash On Hand</u> (at end of reporting period)
FEC Filings 2001-02	\$3,001,908.63	\$2,616,338.91	\$385,569.72
IRS (Non-Federal) Filings 2001-02			
Post-Election Non-Federal	\$385,425.00	\$1,075,091.71	
Post-General (Oct. 17-Nov. 25)	\$461,213.27	\$578,083.28	\$385,569.72
Pre-Election Non-Federal	\$632,135.00	\$799,099.71	
Pre-General (Oct. 1-Oct. 16)	\$280,855.47	\$130,179.37	\$502,439.73
3rd Q 2002 Non-Federal	\$1,269,243.50	\$2,016,514.20	
Oct. '02 Monthly (Sept. 1-Sept. 30)	\$54,292.57	\$380,814.03	\$351,763.63
Sept. '02 Monthly (Aug. 1-Aug. 31)	\$314,839.57	\$362,553.83	\$678,285.09
Aug. '02 Monthly (July 1-July 31)	\$371,235.91	\$439,596.52	\$725,999.35
2nd Q 2002 Non-Federal	\$1,890,350.00	\$553,662.51	
July '02 Quarterly (April 1-June 30)	\$453,759.45	\$449,413.58	\$794,359.96

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1st Q 2002 Non-Federal	\$471,000.	\$236,933.	
April '02 Quarterly (Jan. 1-March 30)	\$333,862.39	\$236,933.35	\$790,014.09
Yr End 2001 (July 1-Dec. 31)	\$731,850.00	\$38,764.95	\$693,085.05

Notes.

The first check to Edwards' Optimists, a \$2,500 contribution from Louis B. Susman, a vice chair at Salomon Smith Barney in Chicago, was recorded on Nov. 2, 2001.

Top Donors (Total Contributions through Nov. 25, 2002):

Over \$100,000 -- \$900,000-Steven Bing, Producer (Los Angeles, CA). \$200,000-Ronald L. Motley, Attorney (Charleston, SC). \$189,000-Tab Turner, Attorney (North Little Rock, AR). \$125,000-John E. Williams, Jr., Attorney (Houston, TX). [\$1,414,000]

\$100,000 -- Frederick M. Baron, Attorney (Dallas, TX); Wade E. Byrd, Attorney (Fayetteville, NC); Foster & Sear (Arlington, TX); Girardi and Keese (Los Angeles, CA); Law Offices of Reagan Silber & Trevor Pearlman, LLP (Dallas, TX); Wayne A Reaud, Attorney (Beaumont, TX); Steven B. Sandler, Developer (Virginia Beach, VA); Law Offices of Shernoff, Bidart & Darras (Claremont, CA); Wilkes & McHugh PA (Tampa, FL). [\$900,000]

\$50,000-\$100,000 -- \$95,000-Shepard A. Hoffman, Attorney (Dallas, TX). \$75,000-Joseph W. Cotchett, Attorney (Burlingame, CA); Waters & Kraus (Dallas, TX); Lisa A. Baron, Attorney (Dallas, TX). \$58,000-James R. Duffy, Attorney (Uniondale, NY); Lopez, Hodes, Restaino, Milman; Skikos & Polos (Newport Beach, CA). [\$436,000]

\$50,000 -- Bruce A. Broillet, Attorney (Los Angeles, CA); Russell Budd, Attorney (Dallas, TX); Clifford Law Offices, P.C. (Chicago, IL); Cooney and Cooney (Chicago, IL); Fisher, Boyd, Brown, Boubreaux & Hugeunard (Houston, TX); Wayne Hogan, Attorney (Jacksonville, FL); Thomas A. Moore, Attorney (New York, NY); John M. O'Quinn, Attorney (Houston, TX); Power Rogers & Smith, P.A. (Chicago, IL); Paul S. Minor, Attorney (Biloxi, MS); Weitz & Luxenburg (New York, NY). [\$550,000]

See also: [Center for Responsive Politics](#)

Edwards for Senate ('04 re-election)

Indications are that Sen. Edwards could face a tough re-election campaign in 2004.

Edwards for Senate Finances

<u>FEC reports</u>	<u>Total Contributions</u>	<u>Total Op. Expends</u>	<u>Cash On Hand</u> (at end of reporting period)
Election Cycle to Date	\$2,782,357.63	\$1,198,299.14	\$2,004,801.23
	net	net	\$6,150,000.00
	\$2,776,807.63	\$1,160,457.15	
Mid-Year '02 (Jan. 1-June 30, 2002)	\$828,789.00	\$164,893.22	\$2,004,801.23
	net \$825,539.00	net \$164,893.22	\$6,150,000.00
Year End '01 (July 1-Dec. 31, 2002)	\$283,288.12	\$183,732.96	\$1,327,738.72
	net \$282,088.12	net \$183,732.96	\$6,150,000.00

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Mid-Year '01 (Jan. 1-June 30, 2001)	\$615,460.00	\$109,487.76	\$1,207,104.43
	net \$615,360.00	net \$109,487.76	\$6,150,000.00

Note:
Figures under cash on hand are debts and obligations owed to/by the committee (in red if debts owed by is greater than debts owed to).

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EXHIBIT F

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HOWARTH & SMITH
ATTORNEYS AT LAW
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SUITE 750
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 955-9400
FAX (213) 622-0791
www.howarth-smith.com

DON HOWARTH

June 19, 2003

DHowarth@howarth-smith.com
Direct Line (213) 955-9400 Ext 109

Jeff S. Jordan, Esq.
Supervisory Attorney
Central Enforcement Docket
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: Your file MUR 5366

Dear Mr. Jordan:

My partner, Suzelle Smith, my law firm, Howarth & Smith, my office administrator, Stacy Kern, and her husband, independent businessman Robert Kern, each received a "complaint," filed by an organization that identifies itself as "The American Conservative Union," as attachments to a letter from you dated June 6, 2003. Enclosed are sworn declarations from Ms. Smith and myself responding to the "complaint." I am informed that Ms. Kern and her husband are sending responding declarations separately.

Ms. Smith and I have purposely kept our declarations factual, and encouraged the Kerns to do the same. We did not use our response to express our indignation at the news article which lumped our Office Administrator in with others as to whom we have no knowledge, but who may be in entirely different circumstances; or our indignation at The American Conservative Union, which apparently has its own agenda, for filing such a complaint against us based on this article. We deeply resent the suggestion of either the newspaper or the political group that we, our firm, or Ms. Kern have done anything improper in holding a fund raiser where people individually contributed to Senator Edwards' campaign. We understand, however, from reviewing the materials in your

(F)

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Jeffrey S. Jordan, Esq.

Page Two

June 19, 2003

letter and the statutory scheme, that once such a "complaint" is filed, the Federal Elections Commission has no choice but to open a matter and request a response; and that there is no discretion on your part to review and reject a complaint, even one which is patently groundless, not based on any first hand knowledge, and apparently made for the purpose of deterring exercise of the rights of citizens to support political candidates.

We will expect in due course to receive your further communication regarding the Commission's response as per your letter.

Very truly yours,



Don Howarth

DH/cf

Enclosures

cc: Suzelle M. Smith, Esq.

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Declaration of Don Howarth

I, Don Howarth, make this declaration on behalf of myself and my law firm, Howarth & Smith. I have personal knowledge of the matters represented herein and could and would testify to these under oath. I make this declaration under oath.

1. I am the managing partner at the law firm of Howarth & Smith, Los Angeles, California. I am a graduate of Harvard College and the Harvard Law School. Before founding my firm, I was a partner at Gibson, Dunn and Crutcher in Los Angeles. I am an elected Fellow of the American College of Trial Lawyers.

2. On June 9, 2003 the firm and I received a letter dated June 6 from Mr. Jeff S. Jordan and a copy of a complaint filed by a David Keene, identifying himself as Chairman of "The American Conservative Union." The letter identifies the matter as MUR 5366.

3. This declaration is in response to that letter and complaint in matter MUR 5366.

4. The complaint lists a number of individuals I do not know and makes accusations concerning them, including a statement that persons at a law firm in Little Rock, Arkansas made contributions after receiving assurances that they would be reimbursed. I have no personal knowledge of the facts or circumstances as to any of these people or of the law firm in Little Rock.

5. The complaint identifies one employee of Howarth & Smith, Ms. Stacy

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Kern. It also lists her husband, Mr. Robert Kern, not employed by us, and two partners of the firm, myself and Suzelle M. Smith. I make this declaration as to these individuals and my firm only.

6. The complaint states that it is "based on numerous media reports." In fact the allegations in the complaint as to myself, Howarth & Smith, Ms. Smith, and Mr. and Mrs. Kern are on their face expressly based on a single "article" attached to the complaint and published in "The Hill News," which ran on May 7, 2003. The article - as it relates to Ms. Kern - is replete with errors. As soon as we saw it, I discussed it with Ms. Kern and wrote the Editor of the paper, Mr. Eisele, so advising him. A true and correct copy of my letter dated May 8, 2003 is attached hereto as Ex. A.

7. The complaint makes statements that donors "were promised they would be reimbursed by their employer(s) for contributions made..." and that "donors appear not to have the financial resources available to have made the reported contributions from their own funds." It says that contributions from "low level employees" arrived on the same day along with contributions from partners and attorneys. It calls the Kerns' contribution "questionable," and says that the principals in my firm (and others) "may have engaged in illegal fundraising practices."

8. We held a fund raiser for Senator Edwards in Malibu. Our attorneys and staff were invited. Some chose to come and made a donation to the campaign; others did not. Friends, neighbors, and spouses, were also invited. Some came and made donations; others did not. Senator Edwards' staff kept a list of contributions and all donations were

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reported. If some donations "arrived" on the same day, it was probably because many of them were delivered at the fund raiser. I do not know, however, the day that any particular donation "arrived."

9. Ms. Kern is the Office Administrator of Howarth & Smith. She has been employed by us since 1985 and is the highest paid non-lawyer employee at our firm. On a confidential basis, as provided in Mr. Jordan's letter to us, I am authorized to advise you that Ms. Kern's 2003 annual salary at the firm is This is before bonus, if any, which decision is made each December. She is not a low level employee without the means to make a contribution. Contrary to what the news article states, the Kerns are home owners in Los Angeles County as stated in my May 8 letter, Ex. A.

10. In addition to Ms. Kern's salary, her husband, Robert Kern, is to my knowledge a successful independent businessman. As pointed out in Ex. A, he is the owner of PNR Travel, which has been in business since 1991. I am informed and believe that he is President of the local American Society of Travel Agents and sits on its national board; and that the 1994 lien cited in the news article was entered in error and released as erroneously entered the same year.

11. I am informed and believe that the Kerns have been political donors in the past and have made political contributions for the last several years to a Political Action Committee, as set forth in Ex. A.

12. Ms. Kern made her own independent decision to attend the Edwards fund raiser, and the Kerns made their own independent decision to contribute and at what level

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to contribute to Senator Edwards. Neither the firm nor I promised reimbursement to the Kerns for their contribution. The decision and financial obligation was entirely their own; they have not been nor will they be reimbursed by me, or by the firm; or by anyone else to my knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 18, 2003, at Los Angeles, California.


Don Howarth

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DECLARATION OF SUZELLE M. SMITH

I, Suzelle M. Smith, declare as follows:

1. I am an attorney at law, duly licensed to practice in the courts of the State of California. I make this declaration on behalf of myself and my law firm, Howarth & Smith, of my own personal knowledge, except where otherwise stated, and, if called upon as a witness could and would competently testify hereto.

2. I am a partner at the law firm of Howarth & Smith, Los Angeles, California. I am a graduate of Oxford University and the University of Virginia Law School. Before founding Howarth & Smith with Don Howarth, I was an associate attorney at Gibson, Dunn and Crutcher in Los Angeles. I am an elected Fellow of the International Academy of Barristers and a member of the Board of Trustees of the University of Virginia Law School.

3. On June 11, 2003, I received a letter dated June 6 from Mr. Jeff S. Jordan and a copy of a complaint filed by a David Keene, identifying himself as Chairman of "The American Conservative Union." The letter identifies the matter as MUR 5366.

4. This declaration is in response to that letter and complaint in matter MUR 5366.

5. I have read the declaration of my partner, Don Howarth, which is being sent to the Commission with my declaration, and believe it to be true and accurate. I also have personal knowledge as set forth below.

6. I have no knowledge of the facts or circumstances as to those identified in

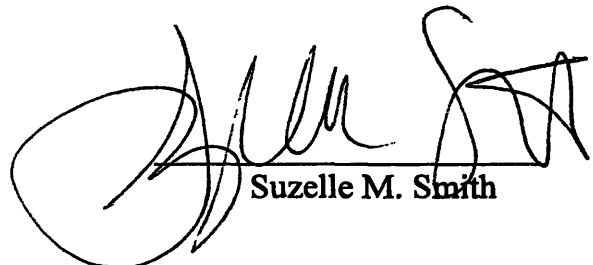
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the complaint except those at Howarth & Smith.

7. Ms. Stacy Kern and I were among the primary contacts with the staff of Senator Edwards in connection with the fund raiser, which was held at my house in Malibu, and at which we were both present. The attorneys and staff from our firm were invited to the fund raiser, along with friends and neighbors. Most, but not all, of our partners decided to contribute and attend. Many of our associate attorneys and staff elected not to make contributions or attend, and did not do so.

8. At no time did anyone from the Edwards staff, or anyone else, ever suggest that any partner or the firm should reimburse contributions made by anyone. Ms. Kern did not request any such reimbursement. She and her husband made their own decision to contribute and decided at what level to contribute. I did not at any time communicate with Mr. Robert Kern about making a contribution. I did not offer or promise reimbursement to the Kerns for their contribution. The decision and the financial responsibility for any amounts they contributed was entirely theirs.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 19, 2003, at Los Angeles, California.


Suzelle M. Smith

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EXHIBIT G

26044142872

**Stacy and Robert Kern
Post Office Box 711019
Los Angeles, California 90071**

June 23, 2003

26044142873
Jeff S. Jordan, Esq.
Supervisory Attorney
Central Enforcement Docket
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: MUR 5366

Dear Mr. Jordan:

As per your letter of June 6, 2003, enclosed please find my declaration and my husband's declaration in regards to MUR 5366.

Very truly yours,


Stacy Kern

/sk

Enclosures

(G)

Declaration of Stacy Kern

I, Stacy Kern, make this declaration on behalf of myself. I have personal knowledge of the matters represented herein and could and would testify to these under oath.

1. I am employed at the law firm of Howarth & Smith, Los Angeles, California, as Office Administrator.

2. On June 11, 2003, I received a letter dated June 6 from Mr. Jeff S. Jordan and a copy of a complaint filed by "The American Conservative Union," called MUR 5366.

3. The May 7 article with the complaint from "The Hill News," contains untrue statements about me and my husband, Robert Kern. After seeing it, I met with Don Howarth and gave him correct information, which he sent to the paper in a letter dated May 8, 2003, attached as Ex. A. The true facts are below.

6. My husband and I are homeowners in Los Angeles County.

7. I have been previously registered to vote and have voted. The same is true of my husband.

8. My husband and I have made political contributions for several years to a PAC (ASTA).

9. My husband is a successful businessman and owner of a travel agency, which he actively manages, PNR Travel.

10. The 1994 lien described in the newspaper article was issued in error. There

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was never a proper lien and none was "active until 2004." It was in fact released the same year, 1994, as erroneously issued, which is a matter of public record. See attached as Exhibit B.


11. I was one of the primary contacts with the Edwards staff for the fund raiser for Senator Edwards in Malibu. I assisted the staff in making arrangements and attended the fund raiser.

12. I helped, attended, and made a donation because I wanted to do so and because I support Senator Edwards. My husband and I discussed his campaign and he wanted to support him too, and did so.

13. I have been employed by Howarth & Smith since 1985. My present salary as Office Administrator is My husband and I both contribute to our personal finances.

14. No one from the Edwards staff or from my law firm or anyone else suggested or promised to reimburse us the amounts we chose to contribute, and we made our contributions understanding that it was our choice to contribute at all and what amount to contribute.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 20, 2003, at Los Angeles, California.


Stacy Kern

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Serving the People of California

State of California / Health and Welfare Agency / Employment Development Department
P.O. Box 826880 Attn: MIC 92G, Sacramento, CA 94280-0001



Pete Wilson, Governor

**Acknowledgement for Erroneously
Issued Lien Number(s)**

Robert E Kern, Jr

DATE October 27, 1994

NAME _____

Long Beach Ca 90806

ATTN: _____

EDD ACCT. NO. 341-3964-2

ESCROW NO. _____

This letter is to acknowledge that the following lien number(s) were **ERRONEOUSLY ISSUED**.

☒ Procedures for release of said lien(s) will now commence and the actual release document will be mailed directly to the appropriate County Recorder.

☐ Be advised, that our Release of Lien(s) was sent to the _____
County Recorder's Office on _____. Recording information not yet
available to us, please obtain this information from the County Recorder.

Recording / Release information is as follows:

LIEN NO.	DATE / RECORDING INFORMATION	DATE / RELEASE INFORMATION
<u>M 235496</u>	<u>1</u>	<u>1</u>
_____	<u>1</u>	<u>1</u>
_____	<u>1</u>	<u>1</u>
_____	<u>1</u>	<u>1</u>

Any questions concerning this can be directed to:

Central Collection Division

(916) 464-2666

Contact Person: L. J. Jarama

Please give your EDD account number and lien number when inquiring.

D B Krauter

D B Krauter, Manager
Collection Support Group, MIC 92G

Declaration of Robert E. Kern, Jr.

I, Robert E. Kern, Jr., make this declaration on behalf of myself. I have personal knowledge of the matters represented herein and could and would testify to these under oath.

1. I am the owner and operator of PNR Travel located in Los Angeles, California. I am married to Stacy Kern, who is employed at the law firm of Howarth & Smith, Los Angeles, California, as Office Administrator.

2. On June 11, 2003, I received a letter dated June 6 from Mr. Jeff S. Jordan and a copy of a complaint filed by "The American Conservative Union," called MUR 5366.

3. I have read the declaration of my wife Stacy Kern, and it is true and accurate. The May 7 article with the complaint from "The Hill News," contains untrue statements about me and my wife. My wife brought this to the attention of her employer, Don Howarth, and gave him the correct information, which he sent to the paper in a letter dated May 8, 2003.

4. I own and operate my own travel agency, in downtown Los Angeles since 1991. PNR Travel is a multi-million dollar agency and currently has approximately 30 in house and home based travel agents. I am actively involved in many of the travel industry's governing bodies and associations including President of the Southern

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California Chapter of the American Society of Travel Agents and I sit on the National Board of Directors.

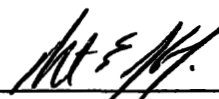
5. I have been previously registered to vote and have voted.

6. My wife and I have made political contributions for several years to a PAC (ASTA).

7. I did not talk to Ms. Smith, Mr. Howarth or anyone from the Howarth & Smith firm about my contribution to Senator Edwards' campaign. I discussed contributing only with my wife and we made our own decision to do so.

8. No one from the Edwards staff or the law firm or anyone else suggested or promised to reimburse us the amounts we chose to contribute, and we made our contributions understanding that it was our choice to contribute at all and what amount to contribute.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 19, 2003, at Los Angeles, California.



Robert E. Kern, Jr.

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